

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO.: 5:09-CV-451-H(2)

DOUGLAS E. MCPHAIL,

Plaintiff,

v.

AMERICAN GENERAL FINANCIAL
SERVICES,

Defendant.

ORDER

This matter is before the court on plaintiff's unopposed Motion to Strike [DE #42]. Plaintiff moves to "strike out, purge and expunge" from his amended complaint his claim pursuant to Article I, § 19 of the North Carolina Constitution (Sixteenth Claim for Relief)¹ and his "Injurious Falsehood" claim (Eighth Claim for Relief). In support of his motion, plaintiff states that the issues he "seeks to strike were improperly researched prior to entering them in his complaint" and "are not properly before the court." (Decl. Supp. Mot. Strike [DE #43] ¶¶ 3-4.)

The court construes plaintiff's motion as a motion to voluntarily dismiss the aforementioned claims pursuant to Rule

¹Although entitled "North Carolina State Equal Protection Act" this claim appears to be what plaintiff is referring to as his Article I, § 19 claim. (See Prelim. Stmt. Am. Compl. (listing "claim pursuant to North Carolina Equal Protection Act, Article 1, § 19).)

41(a)(2) of the Federal Rules of Civil Procedure. For good cause shown, plaintiff's motion [DE #42] is GRANTED. The Eighth and Sixteenth Claims for relief in plaintiff's amended complaint are hereby DISMISSED.

This 7th day of February 2011.



MALCOLM J. HOWARD

Senior United States District Judge

At Greenville, NC
#31